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11 UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
13

14 JOHN M. MANLEY,

15 Plaintiff,

16 v.

17 U.S. CUSTOMS AND BORDER  
PROTECTION,

18 Defendant.  
19

No. 2:24-cv-01427-JAK-SK

**DEFENDANT U.S. CUSTOMS AND  
BORDER PROTECTION'S REPLY IN  
SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT**

*(Concurrently filed with Supplemental  
Declaration of Lisa K. Santana Fox and  
Response to Separate Statement of  
Uncontroverted Facts)*

Hearing Date: June 2, 2025  
Hearing Time: 8:30 a.m.  
21 Ctrm: 10C

22 Honorable John A. Kronstadt  
United States District Judge  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Defendant U.S. Customs and Border Protection (“Defendant” or “CBP”) is entitled to summary judgment in its favor on Plaintiff John Manley’s claim for failure to conduct an adequate search for responsive records in response to Plaintiff’s nine-part FOIA Request, dated September 25, 2023 (the “FOIA Request”).

As CBP argued in its moving papers (Dkt. 28), to prevail on a motion for summary judgment, CBP must “demonstrate ‘beyond material doubt ... that it has conducted a search reasonably calculated to uncover all relevant documents.’” *Frost v. U.S. Dep’t of Justice*, 2018 WL 1626682, at \*4 (N.D. Cal. Apr. 4, 2018) (citation omitted). CBP has done so through the declarations of Lisa K. Santana Fox and Patrick Howard. The declarations detail the process by which the CBP searched for records responsive to the FOIA Request by describing what was searched and by whom. Such is enough to establish an adequate search. *See Lawyers’ Comm. for C.R. of San Francisco Bay Area v. U.S. Dep’t of the Treasury*, 534 F. Supp. 2d 1126, 1131 (N.D. Cal. 2008). Although not mandated by the Court, CBP submits a supplemental declaration of Lisa K. Santana Fox providing further explanation regarding why the SEACATS search using the terms “SENTRI” and “NEXUS” were reasonable and appropriate.

Plaintiff’s principal argument in opposition to summary judgment is, essentially, because CBP did not find the “statistics” that he *speculates* CBP may have, Defendant’s entire search is inadequate. *See* Opp. (Dkt. 30). However, the adequacy of the search is determined by “the reasonableness of [an agency’s] methods, not the quantity or quality of documents it unearths.” *Am. Oversight v. U.S. Dep’t of Just.*, 401 F. Supp. 3d 16, 22 (D.D.C. 2019); *see also Boyd v. Criminal Div. of U.S. Dep’t of Justice*, 475 F.3d 381, 391 (D.C. Cir. 2007) (“the fact that a particular document was not found does not demonstrate the inadequacy of a search.”) (citations omitted). And as the agency declarations explain, although SEACATS may hold raw data relevant to Plaintiff’s request, it does not hold the statistics requested by Plaintiff.

1 An agency's affidavit is accorded "a presumption of good faith, which cannot be  
2 rebutted by 'purely speculative claims about the existence and discoverability of other  
3 documents.'" *SafeCard Servs., Inc. v. S.E.C.*, 926 F.2d 1197, 1200 (D.C. Cir. 1991). But  
4 that is what Plaintiff attempts to do through his Opposition. This is not sufficient to  
5 defeat Defendant's showing on summary judgment. *See, e.g., Wilbur v. CIA*, 355 F.3d  
6 675, 678 (D.C. Cir. 2004) (noting that "mere speculation that as yet uncovered  
7 documents might exist, does not undermine the determination that the agency conducted  
8 an adequate search for the requested records").

9 Further, CBP properly processed the records identified through its search and  
10 applied appropriate exemptions under the FOIA – specifically Exemptions 6, 7(C), and  
11 7(E). *See* 5 U.S.C. §§ 552(b)(6), 7(C), and 7(E). Plaintiff's Opposition fails to establish  
12 that CBP's actions violated the FOIA. And Plaintiff does not actually challenge that CBP  
13 has released all reasonably segregable portions of the responsive records. *See generally*  
14 *Opp.* Therefore, CBP has complied with its FOIA obligation related to Plaintiff's FOIA  
15 Request. For the reasons explained below and in its moving papers, CBP respectfully  
16 requests that the Court grant this motion, and enter judgment in CBP's favor.

## 17 **II. ARGUMENT**

### 18 **A. CBP's Processing and Search in SEACATS Was Reasonably** 19 **Calculated to Uncover All Responsive Records**

20 At no point does Plaintiff argue that the locations CBP searched were improper or  
21 not reasonably calculated to uncover potentially responsive records. Instead, the  
22 common thread running through Plaintiff's Opposition is its speculative belief that CBP  
23 should have conducted *additional* searches and, because it did not conduct each and  
24 every search Plaintiff may wish it did, the search was inadequate for only one of the nine  
25 sub-parts of the FOIA Request.

26 The Opposition squarely focuses on Plaintiff's challenge to the FOIA search for  
27 "statistics" related to the SEACATS system. *See generally Opp.* Section A. Plaintiff  
28 does not challenge any other portion of CBP's search for responsive FOIA records. *See*

1 *id.* Plaintiff erroneously claims that CBP “provides insufficient explanation why  
2 searching SEACATS using only the terms ‘NEXUS’ and ‘SENTRI’ was ‘reasonably  
3 calculated to uncover all relevant documents,’ as FOIA requires.” Opp. 6:25-27. Plaintiff  
4 baselessly states that CBP “seemingly ‘overlooked’ certain ‘obvious leads’ in developing  
5 search terms.” Opp. 7:19-20. Alternatively, Plaintiff also claims without any basis that  
6 the search is SEACATS never occurred. Opp. ¶ 7:3-5. None of these arguments  
7 overcome the evidence submitted with Defendant’s motion, and further supported by the  
8 supplemental declaration of Lisa K. Santana Fox.

9 Plaintiff may not recast his FOIA request by asking CBP to read subsequent  
10 modifications into it because the request must be read “as drafted, not as either agency  
11 officials or [the requestor] might wish it was drafted.” *Nat’l Sec. Couns. v. CIA*, 969 F.3d  
12 406, 410 (D.C. Cir. 2020). Plaintiff attaches a self-serving declaration and exhibits to  
13 support his theory that CBP *could* have used additional search terms in SEACATS to his  
14 liking based on irrelevant communications he had with CBP, outside of the FOIA  
15 Request. *See* Dkt. 30-3 (Declaration of John Manley); Dkt. 30-4 (Exhibit A); Dkt. 30-5  
16 (Exhibit B). But none of these supposed terms were included in his original FOIA  
17 request, nor are they “obvious leads.” *See* Dkt. 1 ¶ 41(9) (“statistics” FOIA request).  
18 Plaintiff has no plausible evidence that the SEACATS actually maintains statistics of  
19 penalties based upon the statutory and regulatory references. *See* Opp. 7:20-24.

20 An agency is not required “to search anew based upon a subsequent clarification.”  
21 *Kowalczyk v. Dep’t of Just.*, 73 F.3d 386, 388 (D.C. Cir. 1996). Imposing ongoing FOIA  
22 obligations “each time the agency receives a letter that clarifies a prior request could  
23 extend indefinitely the delay in processing new requests.” *Id.* “FOIA was not intended to  
24 reduce government agencies to full-time investigators” responding to iterative fishing  
25 expeditions. *Jud. Watch, Inc. v. Dep’t of State*, 177 F. Supp. 3d 450, 457 (D.D.C. 2016).

26 “In general, a FOIA petitioner cannot dictate the search terms for his or her FOIA  
27 request. Rather, a federal agency has discretion in crafting a list of search terms that they  
28 believe to be reasonably tailored to uncover documents responsive to the FOIA requests.



1 Where the search terms are reasonably calculated to lead to responsive documents, a  
2 court should neither micromanage nor second guess the agency’s search.” *Bigwood v.*  
3 *United States Dep’t of Def.*, 132 F. Supp. 3d 124, 140 (D.D.C. 2015) (emphasis added);  
4 *see also Johnson v. Exec. Off. for U.S. Atty’s*, 310 F.3d 771, 776 (D.C. Cir. 2002)  
5 (“FOIA, requiring as it does both systemic and case specific exercises of discretion and  
6 administrative judgment and expertise, is hardly an area in which the court should  
7 attempt to micro manage the executive branch.”); *see also Inter-Coop. Exch. v. United*  
8 *States Dep’t of Com.*, 36 F.4th 905, 911 (9th Cir. 2022) (“For this reason, a FOIA  
9 requestor “cannot dictate the search terms for his or her FOIA request.”); *DiBacco v.*  
10 *U.S. Dep’t of the Army*, 795 F.3d 178, 191 (D.C. Cir. 2015) (an agency “need not knock  
11 down every search design advanced by every requester[.]”). “[T]here is no requirement  
12 that an agency search every record system, or that a search be perfect ....” *See Lawyers’*  
13 *Comm. for C.R. of San Francisco Bay Area*, 534 F. Supp. 2d at 1130 (citations omitted).

14 Against this backdrop, the declarations of Lisa K. Santana Fox establish that  
15 CBP’s search of the SEACATS database was adequate and reasonable. FP&F’s Director,  
16 Lisa K. Santana Fox expressly states in her initial declaration that FP&F conducted a  
17 search of SEACATS by using the terms “SENTRI” and “NEXUS.” Santana Fox Decl.  
18 ¶¶ 5-6. Prior to conducting the search, FP&F reviewed Plaintiff’s request and assigned  
19 the search of records to a SEACATS program manager within FP&F at OFO  
20 Headquarters. Howard Decl. ¶ 18; Santana Fox Decl. ¶ 4. Even though SEACATS *only*  
21 holds the raw data of the records and does not hold or produce statistics, CBP still  
22 conducted a search. *See* Santana Fox Decl. ¶¶ 5-7. When conducting the search, FP&F  
23 looked for all SENTRI and NEXUS lane violations. Howard Decl., ¶ 19. FP&F used  
24 key-word search terms based on a review of Plaintiff’s FOIA Request and consideration  
25 of what terms FP&F reasonably anticipated would “hit” upon potentially responsive  
26 documents. Howard Decl., ¶ 19; Santana Fox Decl. ¶¶ 5-6. No responsive records were  
27 located. Santana Fox Decl. ¶ 7.

28 Moreover, the Supplemental Declaration by Lisa K. Santana Fox, provides further



1 explanation on why the SEACATS search using terms SENTRI and NEXUS were  
2 reasonable and appropriate. Additional parameters were set by dates and incident type  
3 requested, meaning the citation issued. Suppl. Fox Decl. ¶¶ 7-10. Once the raw data was  
4 populated, FP&F proceeded to add a filter for “SENTRI” and “NEXUS” in three  
5 different areas, including the “incident comments,” “additional language field,” and  
6 “comment history.” *Id.* ¶ 7. FP&F searched the “incident comments,” which provides a  
7 short description of the incident, with the same search terms of “SENTRI” and  
8 “NEXUS.” *Id.* ¶ 8. FP&F further searched in the “additional language field” that is  
9 populated on the 5955A penalty notice to the violator with the terms “SENTRI” and  
10 “NEXUS.” *Id.* ¶ 9. FP&F also searched in the “comment history” which is also located  
11 within the incidents, with the search term “SENTRI” and “NEXUS.” *Id.* ¶ 10. Based on  
12 the Search, FP&F did not find “Statistics reflecting the total number of fines and/or  
13 demands for payment issued by CBP for unauthorized use of the SENTRI lane, the  
14 dollar amount of each fine, the location where such fines were incurred, and the  
15 frequency of fines issued since January 1, 2020.” *Id.* ¶ 11; Santana Fox Decl. ¶ 7.

16 Next, Plaintiff disputes the basis of whether SEACATS holds “statistics”  
17 compared to just holding “raw data” Opp. 10:1-6. Plaintiff attempts to claim that a DHS  
18 report from the Office of Inspector General (OIG) confirms his baseless theory that  
19 SEACATS regularly produces statistics. *See* Opp. 11:10-17. But what the OIG Report  
20 that Plaintiff attached to the Opposition actually states, in Appendix A, is that OIG  
21 engaged in a comprehensive and exhaustive process, outside of the duties under FOIA to  
22 create the statistics that Plaintiff relies on. Specially DHS OIG did the following in  
23 conducting their audit: they interviewed personnel at various CBP offices, conducting  
24 virtual walkthroughs of the system to understand how CBP personnel capture data, and  
25 reviewing relevant standard operating procedures; they reviewed the case history to  
26 determine the statuses of these cases and whether the statute of limitations had expired;  
27 assessed the reliability of SEACATS data by performing electronic testing, reviewing  
28 existing information about the data and the system that produced it, and interviewing

1 agency officials knowledgeable about the data; and then conducted an audit according to  
2 generally accepted government auditing standards. *See* Dkt. 30-11 (Ex. E to Vakili  
3 Decl.), at 12. The OIG Report demonstrates that OIG’s audit did not merely rely on any  
4 existing statistics, nor did their audit, which included a SEACATS search, create  
5 statistics in SEACATs that are now subject to FOIA. And Plaintiff’s FOIA search is not  
6 asking for the data behind the audit or anything of the like.

7 The agency is the ultimate expert of its own records and holds the burden to  
8 demonstrate the appropriateness of the methods used to carry out the FOIA search. The  
9 Declarations of Patrick Howard and Lisa K. Santana Fox, explain, in detail, the locations  
10 searched, and the search terms used by CBP to locate records potentially responsive to  
11 the “statistics” portion of the FOIA Request. Records were justifiably not found and as  
12 such the declarations establish that CBP’s search was adequate.

13 **B. CBP Redactions Were Proper Under Applicable FOIA Exemptions**

14 1. Exemptions 6 and 7(c)

15 Here, the Opposition does not actually challenge the claimed Exemptions under 6  
16 and 7(C) asserted to protect name and contact information of government employees.  
17 *See* Opp. 21-22. Rather, without any case authority to support the position, Plaintiff  
18 seeks disclosure of the employment titles disclosed in the document titled as  
19 “Memorandum re Implementation of Trusted Traveler Programs Handbook.” However,  
20 this limited disclosure does not overcome the basis for the asserted Exemptions.

21 As stated in the motion, CBP asserted Exemptions 6 and 7(C) to protect name and  
22 contact information of government employees, contained within the Memo Trusted  
23 Travelers Program (TTP) Handbook (Bates p. 1). Howard Decl. ¶ 27. This document is a  
24 memorandum that accompanied the distribution of the Trusted Traveler Program  
25 Handbook. *Id.* Government employees, including CBP law enforcement officers, have a  
26 protectable privacy interest in their identities that would be threatened by disclosure. *Id.*  
27 *Moore v. Bush*, 601 F. Supp. 2d 6, 14 (D.D.C. 2009) (“Generally, government  
28 employees and officials, especially law enforcement personnel, have a privacy interest in

1 protecting their identities because disclosure ‘could subject them to embarrassment and  
2 harassment in the conduct of their official duties and personal affairs.’” (citation  
3 omitted)). Likewise, third parties have a privacy interest in controlling their personal  
4 information (including their names) and preventing its unrestricted disclosure. *U.S. Dep’t*  
5 *of Just. v. Reps. Comm. for Freedom of the Press (“Reps. Comm. II”)*, 489 U.S. 749, 763  
6 (1989). Plaintiff does not identify any countervailing public interest; he only *speculates*  
7 that the Memo *could* include job titles. *See* Opp. 21:20; 22:1-3. Without any such  
8 countervailing interest, Exemption 6 justifies withholding this information. Thus, for the  
9 reasons discussed above and in the agency’s declaration, the withholdings under  
10 Exemptions 6 and 7(C) are properly applied.

11 2. Exception 7(e)

12 Plaintiff claims that CBP improperly withheld records under Exemption 7(e) for  
13 the TTP Handbook in Sections 14.1 and 14.2 and SENTRI No Tag Override were  
14 improper. Opp. 18-19; 21. But Plaintiff’s arguments are insufficient to overcome the  
15 FOIA protections. CBP invoked Exemption 7(e), which exempts records compiled for  
16 law-enforcement purposes when their release “would disclose techniques and procedures  
17 for law enforcement investigations or prosecutions[.]” 5 U.S.C. § 552(b)(7)(e).

18 This exemption “sets a relatively low bar” for withholding: “Rather than requiring  
19 a highly specific ... showing [of] how the law will be circumvented,” the agency need  
20 only “demonstrate logically how the release of the requested information might create a  
21 risk of circumvention of the law.” *Blackwell v. FBI*, 646 F.3d 37, 42 (D.C. Cir. 2011)  
22 (quoting *Mayer Brown LLP v. IRS*, 562 F.3d 1190, 1194 (D.C. Cir. 2009)). While  
23 exemption 7(e) generally does not apply to “routine techniques and procedures already  
24 well known to the public,” *Founding Church of Scientology of Wash., D.C., Inc. v. NSA*,  
25 610 F.2d 824, 832 n.67 (D.C. Cir. 1979) (citation omitted), it **does** protect techniques  
26 and procedures that are not widely known and could be exploited by individuals seeking  
27 to evade law-enforcement scrutiny. CBP asserted the exemption to protect sensitive  
28 information describing secondary land border officer procedures, including specific

1 technique/methods utilized by the officers, the computer systems used by the officers to  
2 input information that is in accordance with current policies and procedures for internal  
3 security systems, which includes encrypted law enforcement codes and/or terminology,  
4 as well as systems utilized by other Agencies. *See Vaughn* Index; Howard Decl. ¶¶ 29,  
5 31. The redacted information consists of law enforcement techniques, and disclosing it  
6 could facilitate circumvention of the law. Courts have held that CBP's security measures  
7 for records of factors and priorities CBP considers when evaluating applicants  
8 for Trusted Traveler Programs are protected. *See Malik v. U.S. Dep't of Homeland Sec.*,  
9 2025 WL 763642, at \*9 (D.D.C. Mar. 11, 2025). Thus, CBP properly applied Exemption  
10 7(C).

11 **C. Plaintiff's Defective Rule 56(d) Request is Unnecessary in this FOIA**  
12 **Action**

13 Lastly, Plaintiff requests the Court allow him to engage in discovery, which was  
14 stayed by the Court. *See* Opp. 5:19-26. Without filing a proper motion, Plaintiff asks the  
15 Court to issue an order compelling: (1) Defendant to respond to discovery regarding  
16 CBP's methods for inputting and maintaining SENTRI enforcement data in its databases,  
17 including SEACATS, as well as the functionality of SEACATS to generate data, (2) a  
18 conference with Plaintiff regarding search terms after responding to discovery, (3)  
19 compelling another FOIA search after the conferral process is complete and (4) then  
20 engage in renewed motions for summary judgment. *Id.* Plaintiff's far-reaching request  
21 exceeds the needs of this case and undermines the purpose of FOIA. Plaintiff's request is  
22 an improper attempt to amend his FOIA request and is trying to create a "lawsuit within  
23 a lawsuit" as a basis to continue this FOIA litigation.

24 "Although discovery is generally unavailable in FOIA cases, courts sometimes  
25 permit discovery if an agency does not adequately explain its search process or if the  
26 agency submits a declaration in bad faith." *See Schrecker v. U.S. Dep't of Justice*, 217 F.  
27 Supp. 2d 29, 35 (D.D.C. 2002), *aff'd*, 349 F.3d 657 (D.C. Cir. 2003); *see also Animal*  
28 *Legal Def. Fund v. U.S. Food & Drug Admin.*, 836 F.3d 987, 989 (9th Cir. 2016).

1 However, “[i]f the affidavits contain reasonably detailed descriptions of the documents  
2 and allege facts sufficient to establish an exemption, the district court need look no  
3 further.” *Citizens Comm’n on Human Rights v. Food & Drug Admin.*, 45 F.3d 1325,  
4 1329 (9th Cir. 1995).

5 First, Plaintiff **admits** he does not need additional discovery and claims he has  
6 “provide[d] sufficient disputes of material fact to defeat Defendant’s summary judgment  
7 motion...” Opp. 12:11-13. Discovery should not be granted simply for academic and  
8 hypothetical inquiry. Rule 56(d) is only allowed if “a nonmovant shows by affidavit or  
9 declaration that, for specified reasons, it cannot present facts essential to justify its  
10 opposition.” Fed. R. Civ. P. 56(d). For this first reason, Plaintiff’s discovery request  
11 should be denied.

12 Second, when an agency’s declarations are found to be insufficient, courts often  
13 order the submission of supplemental information rather than resorting to discovery. *See*,  
14 *e.g.*, *Beltranena v. Clinton*, 770 F. Supp. 2d 175, 187 (D.D.C. 2011) (denying requests  
15 for discovery and in camera review and instead ordering agency to supplement affidavits  
16 to establish that it conducted adequate searches and to provide particularized  
17 explanations for its segregability determinations); *Jarvik v. CIA*, 741 F. Supp. 2d 106,  
18 122 (D.D.C. 2010) (“Even if an agency’s affidavits regarding its search are deficient,  
19 courts generally do not grant discovery but instead direct the agency to supplement its  
20 affidavits.”). The Supplemental Declaration of Lisa K. Santana Fox is submitted with  
21 this Reply in order to provide additional information to the Court and to the Plaintiff  
22 regarding the FOIA search that was conducted within SEACATS. *See* Suppl. Santana  
23 Fox Decl. ¶¶ 4-11. Plaintiff’s request for discovery should be denied for this additional  
24 reason.

25 Third, Defendant effectively responded to the written discovery served earlier in  
26 this lawsuit through the declarations and the *Vaughn* Index. Plaintiff presented seven  
27 interrogatories that sought information regarding the adequacy of the FOIA search, as  
28 well as an explanation of the basis for the redactions established in the TTP Handbook.

1 *See generally* Farrell Decl. Exh. 1. For example, Plaintiff’s first interrogatory requests a  
2 description of the “computer systems and/or databases in which [CBP employees] input,  
3 maintain, and/or store data regarding fines collected and/or demands for payment.” *Id.*  
4 Further, Plaintiff’s third, fourth, and fifth interrogatories seek information regarding  
5 information about the use of the SEACATS by CBP, the applicability of finding  
6 statistics within SEACATS, as well as inquiring into whether CBP searched the  
7 SEACATS for responsive records in response to the FOIA request. *Id.* Second, Plaintiff  
8 made a single request for admission to CBP seeking an affirmative statement of whether  
9 CBP conducted a search for responsive records within the SEACATS. *See* Farrell Decl.  
10 Exh. 2.

11 Plaintiff does not need further discovery from CBP because the evidence  
12 presented with this motion adequately addresses the issues identified by Plaintiff.  
13 Specifically, the Declarations of Lisa K. Santana Fox adequately explain that FP&F did  
14 conduct a search for responsive records in SEACATS, and that the FOIA search did not  
15 identify any responsive records. Further, the Declaration of Patrick Howard explains that  
16 SEACATS holds the raw data of the records and does not hold or produce statistics.  
17 [cite]. Moreover, the Howard Declaration sufficiently explains the basis for the claimed  
18 FOIA exemptions. Howard Decl. ¶¶ 25-32. The Howard Declaration and the *Vaughn*  
19 Index sufficiently explain the FOIA search as well as the basis for the redactions and the  
20 claimed exemptions under 5 U.S.C. § 552(b)(6) and (b)(7)(C) and (b)(7)(E). As such,  
21 this Court should deny any request by Plaintiff to conduct additional discovery in this  
22 FOIA action and resolve this case on the pending motion for summary judgment. *See*  
23 *Yagman v. Brennan*, 2020 WL 4341592, at \*14 (C.D. Cal. June 9, 2020) (denying a Rule  
24 56(d) request after determining the FOIA declarations were sufficient) (citing *Citizens*  
25 *Comm’n on Human Rights*, 45 F.3d at 1329).

### 26 **III. CONCLUSION**

27 For the reasons discussed above and for the reasons in the motion, Defendant CBP  
28 requests that the Court grant this motion and enter judgment in its favor.

1 Dated: May 19, 2025

Respectfully submitted,

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10 **Local Rule 11-6.2 Certificate of Compliance**

11 The undersigned counsel of record certifies that this Reply Brief contains 3,464  
12 words and is 10 pages in length, which complies with the word limit set by L.R. 11-6.1  
13 and the page limit set by this Court's Standing Order [Dkt. 8].  
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15 Dated: May 19, 2025

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